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INFO AMCONSUL STRASBOURG

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PASS: EUR/RPE FOR SWARTZ, OES FOR CRAWFORD, EB FOR BOND

NBS, OTP, COMMERCE/OT, NSF

E.O. 11652:N/A

TAGS: TGEN, OECD

SUBJECT: OECD/CSTP : TRANSBORDER DATA FLOW - STATUS OF
PROJECT FOR INTERNATIONAL CONVENTION IN COUNCIL
OF EUROPE AND OECD.

REF: (A) OECD PARIS 36381 (B) STRASBOURG 231 (C) STATE
018252

1. SUMMARY. (A) A VOLUNTEER GROUP OF THE OECD DATA BANK
PANEL MET ON FEB 3-4 TO ADVANCE THE PREPARATION OF THE
SYMPOSIUM ON TRANSBORDER DATA FLOW, NOW SCHEDULED FOR
SEPTEMBER 27-29, 1977. FURTHER ATTEMPTS TO INVOLVE OECD
IN A CONVENTION DRAFTING OPERATION WERE ONCE AGAIN FIRMLY
REJECTED BY US, WITH STRONG CANADIAN, UK AND FRENCH SUP-
PORT. (B) THE COUNCIL OF EUROPE (CE) DRAFTING GROUP OF
THE COMMITTEE OF EXPERTS ON DATA PROTECTION MET IN STRAS-
BOURG FEB 15-16 TO DISCUSS A CE SECRETARIAT MEMORANDUM,
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INCLUDING A PRELIMINARY DRAFT INTERNATIONAL CONVENTION ON
DATA PROTECTION. THE USOECD SCIENCE ADVISER WAS REQUESTED
BY THE CHAIRMAN (JOINET, FRANCE) TO PARTICIPATE ACTIVELY
IN THE DISCUSSION, AND SPECIFICALLY TO EXPRESS THE US
VIEW POINT. IN PRIVATE CONVERSATION, JOINET STATED THAT,
IN HIS OPINION, A DRAFT ACCEPTABLE FOR RATIFICATION COULD
NOT POSSIBLY BE READY FOR SUBMISSION BEFORE 1980. CE

MEETING DOCUMENTS HAVE BEEN AIRPOUCHED TO THE DEPARTMENT (CRAWFORD, OES). END SUMMARY.

2. FEB 3-4 MEETING AT OECD DATA BANK PANEL. AS SCHEDULED AT THE DEC 2-3 MEETING OF THE FULL PANEL, VOLUNTEER COUNTRIES MET ON FEB 3-4 OSTENSIBLY TO PREPARE THE SYMPOSIUM, MAINLY BY REVISING THE SECRETARIAT'S DRAFT ANALYSIS OF ISSUES. PRESENT WERE REPRESENTATIVES OF : AUSTRIA, BELGIUM, CANADA (PERMDEL), FRANCE, FRG, (JOINET, VICE-CHAIRMAN OF PANEL), JAPAN (PERMDEL), SWEDEN (KALLNER CHAIRMAN, AND FREESE AT TABLE), UK, US (JOHN BERG, NBS ; STEPHEN BOND, DEPARTMENT/EB ; WILLIAM FISHMAN, ASST DIRECTOR, OTP ; USOECD SCIENCE ADVISER). THE SECRETARIAT DID NOT PRODUCE THE PROMISED ISSUES PAPER, AND THE MEETING WAS CONSEQUENTLY SIDETRACKED SEVERAL TIMES INTO CONSIDERING THE FEASIBILITY OF AN OECD INTERNATIONAL AGREEMENT, WITH THE SECRETARIAT IN THE LEAD, SUPPORTED SOMEWHAT HALF-HEARTEDLY BY AUSTRIA AND FRG. THE US, UK, CANADA AND FRANCE PROVIDED STEADY OPPOSITION TO THESE ATTEMPTS, AND THE GROUP ULTIMATELY SETTLED DOWN TO EXAMINING DSTI/CUG/76.36 1ST REVISION (GUIDELINES AND PRINCIPLES) AND DSTI/CUG/76.37 1ST REVISION, (SYMPOSIUM). THE SECRETARIAT WAS ANXIOUS TO USE CUG/76.36 AS A SYMPOSIUM BACKGROUND PAPER, BUT THERE WAS NO AGREEMENT TO USE THIS MEDIOCRE DOCUMENT FOR ANYTHING OTHER THAN AN INTERNAL WORKING PAPER, NOT FOR DERESTRICTION AND DISTRIBUTION OUTSIDE THE OECD. THE SECRETARIAT WAS THEREFORE CHARGED WITH WRITING ANOTHER PAPER, SUITABLE AS AN SYMPOSIUM.

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3. IN CONSIDERING CUG/76.37, THE AUSTRIAN SPRANG A SURPRISE BY STATING HIS GOVERNMENT'S INVITATION TO HOLD THE SYMPOSIUM IN VIENNA. THE SECRETARY GENERAL'S APPROVAL WILL BE REQUIRED FOR THIS, BUT AT THE TIME OF WRITING, HIS DECISION HAS NOT BEEN ANNOUNCED. THE PROGRAM DOCUMENT ITSELF WAS SUBJECTED TO A FAIR AMOUNT OF REVISION, AND A NEW VERSION SHOULD BE AVAILABLE FOR THE MEETING OF THE ICCP ON MAR 1-3. A SMALL DISCUSSION GROUP, INCLUDING BERG FOR THE US, WENT OVER THE PAPER DURING LUNCHEON ON FEB 3, AND IS SCHEDULED TO MEET AGAIN AS A SYMPOSIUM STEERING-GROUP ON MARCH 4.

4. AN INTERESTING FEATURE OF THIS MEETING WAS THE ATTITUDE OF THE SWEDISH REPRESENTATIVES. THE CHAIRMAN, KALLNER, WHO HAD BEEN VERY FORTHRIGHT IN DECEMBER WITH RESPECT TO THE INTENTIONS OF THE COUNCIL OF EUROPE IN THE FIELD OF DATA PROTECTION, SEEMED MUCH MORE HESITANT, AND SEEMED MUCH MORE SYMPATHETICALLY INCLINED TO THE US

POSITION. THE SWEDISH REPRESENTATIVE AT THE TABLE, FREESE

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, ASKED (IN CORRIDOR CONVERSATION) WHY THE US WAS "OPPOSED TO AN OECD CONVENTION", STATING THAT HE KNEW THAT "US SERVICES BUREAUS AND COMPANIES LIKE IBM WERE VERY WORRIED ABOUT WHAT WAS GOING ON IN THE COUNCIL OF EUROPE, SO THAT OECD SHOULD HURRY UP, PARTICULARLY AS THE NORDIC CONVENTION ON DATA FLOW HAD BEEN DROPPED". THE US POSITION WAS ONCE AGAIN SPELLED OUT IN DETAIL FOR HIS BENEFIT, VIZ., THAT UNTIL THE ISSUES HAD BEEN PROPERLY DISPLAYED AND ANALYZED, AND UNTIL SOME CONSENSUS HAD BEEN REACHED ON SUBSTANCE, THE US WOULD OPPOSE ANY INITIATIVE BY THE OECD TO MOVE INTO A DRAFTING STAGE. AT THIS POINT, FREESE SAID THAT HE HAD PARTICIPATED WITH THE SECRETARIAT IN THE INFORMAL DRAFTING OF AN OECD "COUNTER-CONVENTION" (COPY AIRPOUCHED TO DEPARTMENT) WHICH HE HOPED WOULD PREEMPT AND FORESTALL THE CE DRAFT (SEE PARA 16 BELOW FOR SWEDISH PROPOSED AMENDMENT TO CE DRAFT CONVENTION).

5. JOINET'S POSITION, TOO, WAS INTERESTING. ON BEHALF OF LIMITED OFFICIAL USE

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THE FRENCH DEPARTMENT OF JUSTICE, JOINET HAS BEEN RESPONSIBLE FOR PREPARING AND DRAFTING THE FRENCH DATA PRIVACY BILL, TO BECOME LAW BY LATE SPRING 1977. DURING THE DISCUSSION ON FEB 3, HE MADE THE POINT THAT PERHAPS NOT ONE, BUT SEVERAL INTERNATIONAL AGREEMENTS MIGHT BE NECESSARY, AND THAT THE ROUTINE AND SERVICE OPERATIONS OF TRANSNATIONAL ENTERPRISES MIGHT HAVE TO BE CONSIDERED FOR SPECIAL TREATMENT AND PERHAPS EVEN SPECIFICALLY EXCLUDED FROM FORMAL INTERNATIONAL AGREEMENTS.

6. THERE WAS SOME DISCUSSION OF DSTI/ICCP/77.3, A PROPOSAL FOR A CONTRACT STUDY ON DATA NETWORKS IN OECD MEMBER-COUNTRIES. PARTICIPATING COUNTRIES WILL SHARE THE COST OF THE STUDY, TO BE CARRIED OUT BY A UK FIRM (LOGICA LIMITED) AT A COST OF 100.000 F. THE US IS NOT INVOLVED IN THE COST-SHARING EXERCISE, WHICH APPLIES ONLY TO EUROPEAN PARTICIPANTS. ON BEHALF OF THE US, HOWEVER, FISHMAN OFFERED TO MAKE AVAILABLE INFORMATION ON FILE IN OTP CONCERNING US EXISTING AND PLANNED NETWORKS, SUBJECT TO RELEASE.

7. AS THINGS STAND, THE OECD SYMPOSIUM ON "TRANSBORDER MOVEMENT AND PROTECTION OF DATA" WILL BE HELD ON SEP 27-29, POSSIBLY IN VIENNA. PARTICIPANTS WILL NUMBER ABOUT 180, AND THE US CAN COUNT ON A CEILING OF 15. THE OECD SECRETARIAT IS CHARGED WITH WRITING A BACKGROUND "ISSUES" PAPER AND HAS BEEN PUT ON NOTICE THAT THERE IT HAS NO AUTHORITY EITHER TO INTRODUCE INTO THE SYMPOSIUM A DRAFT AGREEMENT OR TO PROMOTE A DISCUSSION OF THE POSSIBLE TERMS OF ANY SUCH INTERNATIONAL CONVENTION FORMAL OR INFORMAL. IF MENTIONED AT ALL, AN INTERNATIONAL AGREEMENT WILL BE TREATED AS ONE OF THE SEVERAL OPTIONS FOR DEALING WITH PARTS OF A BROAD, COMPLEX PROBLEM, ABOUT THE COMPONENT PARTS OF WHICH THERE HAS SO FAR BEEN VERY LITTLE COHERENT AND SUBSTANTIVE DISCUSSION IN THE OECD OR S ELSEWHERE.

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8. COUNCIL OF EUROPE DRAFTING GROUP OF COMMITTEE OF EXPERTS ON DATA PROTECTION FEB 15-16. THIS MEETING WAS MOST INSTRUCTIVE FROM A US POINT OF VIEW, AND CONSIDERABLE APPRECIATION IS DUE TO CONSUL GENERAL ROMINE FOR HAVING SUCCESSFULLY NEGOTIATED US PARTICIPATION IN A CLOSED WORKING-PARTY THAT MET SPECIFICALLY TO DEAL WITH THE CE DRAFT CONVENTION. AS A DIRECT RESULT OF THIS

PARTICIPATION, THE SITUATION IS NOW MUCH CLEARER WITH RESPECT BOTH TO PROGRESS IN THE COUNCIL OF EUROPE ITSELF, AND TO THE ATTITUDES OF CERTAIN MEMBERS. A BRIEF EVALUATION AT THE END OF THIS MESSAGE WILL SUMMARIZE THE STATUS IN THE CE AS IT APPEARS TO INTERACT WITH THE OECD PROGRAM.

9. THE WP WAS CHAIRED BY JOINET (FRANCE) WHO IS ALSO VICE-CHAIRMAN OF THE OECD DATA BANK PANEL. OTHER COUNTRIES REPRESENTED WERE : AUSTRIA, BELGIUM, FRG, ITALY, NETHERLANDS, SWEDEN, AND, BY COURTESY OF THE CHAIRMAN AND MEMBERS, THE US. THE CE SECRETARIAT WAS REPRESENTED BY FRITS HONDIUS (NETHERLANDS), HEAD OF A DIVISION IN THE LEGAL AFFAIRS DIRECTORATE, WHO WROTE THE DRAFT CONVENTION UNDER DISCUSSION.

10. THE MEETING PROPER BEGAN ON THE AFTERNOON OF FEB 15 WITH A LENGTHY CONSIDERATION OF ARTICLES 2, 3 AND 4 OF THE CE DRAFT CONVENTION. ARTICLE 2, "PRINCIPLES OF DATA PROTECTION", IS INTENDED TO BE THE "HARD CORE" OF THE CONVENTION, I.E. A SET OF PRINCIPLES THAT ALL PARTICI-

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PATING COUNTRIES ARE EXPECTED TO ADOPT AND INCORPORATE

INTO THEIR NATIONAL LEGISLATION. ARTICLE 4, "SUPERVISION OF TRANSFRONTIER DATA PROCESSING" SETS OUT THE METHODOLOGY FOR CONTROLLING TRANSBORDER DATA FLOW, BASED ON AN ASSUMPTION IN ARTICLE 3 THAT STATES WILL INDEED DESIGNATE AN INDEPENDENT SUPERVISORY AUTHORITY TO IMPLEMENT SUCH CONTROL.

11- FROM THE ENSUING DISCUSSION, IT RAPIDLY BECAME EVIDENT THAT, ALTHOUGH ALL MEMBERS WANTED SOME KIND OF AGREEMENT TO PROTECT THE PRIVACY OF THE INDIVIDUAL VIS-A-VIS TRANSBORDER DATA FLOW, NOBODY SEEMED INCLINED TO TOUCH ON THE CENTRAL PROBLEMS OF (A) LISTING AND ANALYZING THE DIFFERENT CATEGORIES OF TRANSBORDER DATA FLOW (B) DEFINING THE PRIVACY AND OTHER ISSUES THAT MIGHT ARISE IN EACH OF THE LISTED CATEGORIES (C) EXAMINING THE SUBSTANTIVE REQUIREMENTS TO ENSURE CONTINUOUS DATA FLOW IN SPECIFIC CATEGORIES WHILE PROTECTING PRIVACY (D) EXAMINING THE CONSEQUENCES OF THE VARIOUS LEGAL PROVLIMITED OFFICIAL USE

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SIONS OF THE DRAFT CONVENTION AS THEY AFFECTED DIFFERENT CATEGORIES OF DATA FLOW, AND SO ON. IN FACT, THERE WAS A MODEL DEMONSTRATION OF THE DIFFICULTIES THAT ARISE IN ELABORATING A FORMAL TEXT WITHOUT A PRIOR, ADEQUATE ANALYSIS OF THE SUBSTANTIVE ELEMENTS, AGGRAVATED IN THIS INSTANCE BY THE FACT THAT THERE WAS AVOWEDLY NO AGREEMENT SO FAR ON THE DEFINITION OF PRIVACY OR ON THE MANNER IN WHICH CONFLICTING NATIONAL VIEWS ON A BALANCE BETWEEN PRIVACY AND FREEDOM OF ACCESS TO INFORMATION WERE TO BE RECONCILED.

12. THE CHAIRMAN REDRAFTED ARTICLE 2, THE "HARD CORE", AND HIS REDRAFT WAS CIRCULATED IN FRENCH ON FEB 15 (IN ENGLISH ON FEB 16). AT THIS POINT, THE US PARTICIPANT WAS ASKED TO STATE US VIEWS, AND TO COMMENT ON THE DISCUSSION SO FAR. RESPONDING, THE US (A) EXPRESSED APPRECIATION AT BEING PRIVILEGED TO ATTEND A CLOSED MEETING (B) EMPHASIZED THAT FOR OBVIOUS REASONS THERE COULD NOT BE AN OFFICIAL US POSITION IN THE COUNCIL OF EUROPE DRAFT (C) STATED THAT US VIEWS, AS EXPRESSED TO THE OECD DATA BANK PANEL ON SEVERAL OCCASIONS, AND TO THE CSTP ON FEB 9 WERE VERY SIMPLY THAT UNTIL (A) THE SUBSTANTIVE ISSUES HAD BEEN CLEARLY DISPLAYED AND ANALYZED, AND UNTIL (B) THE COMPONENTS OF THE US DOMESTIC SITUATION HAD ACHIEVED SOME CONVERGENCE, THE US GOVERNMENT COULD NOT AND WOULD NOT EITHER UNDERTAKE ACTION OR EVEN PREJUDGE THE FORM THAT SUCH ACTION MIGHT TAKE. THEREFORE, THE US WAS AN INTERESTED OBSERVER OF INITIATIVES IN THE COUNCIL OF EUROPE, IN THE EEC, THE ITU AND ELSEWHERE. AS FAR AS THE OECD IS CONCERNED, THE US IS ON

RECORD AS APPROVING COOPERATION WITH THE COUNCIL AND OTHER BODIES WITH RESPECT TO A CAREFUL AND EXHAUSTIVE EXAMINATION OF ISSUES, BUT WITH NO IMPLICATION THAT THE OECD IS COMMITTED TO AN INTERNATIONAL AGREEMENT UNTIL SUCH TIME AS THE OECD SO COMMITS ITSELF AT THE LEVEL OF THE OECD COUNCIL.

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13. COMMENTING ON THE DISCUSSION, THE US OBSERVED THAT PERHAPS THE BEST SERVICE THE COUNCIL OF EUROPE MIGHT RENDER TO THE COMMON EFFORT WOULD BE TO PRESENT TO THE OECD SYMPOSIUM IN SEPTEMBER AN ANNOTATED SELECTION OF CONCRETE ILLUSTRATIONS OF SUBSTANTIVE ISSUES ARISING FROM THE DISCUSSIONS IN THE COMMITTEE OF EXPERTS ON DATA PROTECTION AND IN ITS SUB-GROUPS. BUT, IT WOULD BE A MISTAKE FOR THE CE TO OFFER A DRAFT CONVENTION FOR DISCUSSION, (AS WAS SUGGESTED AT THE FEB 3-4 MEETING OF THE OECD DATA BANK PANEL) AS THIS WOULD UNDOUBTEDLY PROVOKE TIME-CONSUMING LEGAL ARGUMENT, THEREBY DEFEATING THE OBJECTIVE OF THE SYMPOSIUM, WHICH SHOULD BE A FACT-FINDING EXERCISE INTENDED AS GUIDANCE TO OECD MEMBER-COUNTRIES, AND OTHERS, IN A SEARCH FOR REALISTIC POLICY-LEVEL DECISIONS.

14. THESE COMMENTS WERE WELL-TAKEN, AND HONDIUS REPLIED THAT IN FACT THE SECRETARIAT HAD BECOME AWARE OF THE LACK OF ATTENTION TO SUBSTANCE, AND WAS NOW WORKING ON AN ISSUES PAPER THAT SHOULD BE READY FOR THE JUNE MEETING. ARTICLE 2 WAS THEN DISPOSED OF, BUT THE CHAIRMAN'S REVISION WAS CONSIDERED INCOMPLETE, AS IT OMITTED SOME ESSENTIALS OF THE ORIGINAL. A NEW VERSION WILL ALSO BE PREPARED FOR JUNE.

15. THE DISCUSSION OF ARTICLES 3 AND 4 BROUGHT OUT QUITE CLEARLY SOME FUNDAMENTAL DIFFERENCES OF APPROACH EVEN AMONG THE MEMBERS OF THE RESTRICTED WORKING-PARTY

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PRESENT. WHEREAS THE NETHERLANDS AND SWEDEN WERE IN AFAVOR OF PUTTING EXTENSIVE LEGAL POWERS IN THE HANDS OF A SUPERVISORY AUTHORITY, THE FRENCH, BELGIANS AND THE FRG WERE FOR A MORE FLEXIBLE ARRANGEMENT, AND WERE EVIDENTLY TROUBLED BY THE IDEA OF CREATING A NEW LEGAL AUTHORITY. THERE WAS VIRTUALLY NO AGREEMENT TOO, OVER THE MANNER IN WHICH LEGAL AUTHORITY MIGHT BE EXERCISED ON NATIONALS BEYOND THEIR OWN NATIONAL FRONTIERS, OR ON NON-NATIONALS WITHIN OTHER COUNTRY FRONTIERS. DIVORCED FROM SUBSTANCE, THE DISCUSSION BECAME SO ACADEMIC THAT FINALLY IT WAS AGREED TO MAKE A STUDY OF THE APPLICABILITY OF EXISTING INTERNATIONAL LAW BEFORE VENTURING INTO A TRICKY SITUATION OF CREATING PRECEDENTS FOR TRANSBORDER DATA FLOW. THERE WAS GENERAL AGREEMENT THAT A SUPERVISORY AUTHORITY, WOULD BE COSTLY, CUMBERSOME AND BUREAUCRATICALLY BURDENSOME, AND THAT ESTABLISHING AN INTERNATIONAL COORDINATING COMMITTEE OF SUCH AUTHORITIES (ARTICLE 6) WOULD PRESENT NUMEROUS PROBLEMS TO BE CONSIDERED LATER. AT THIS POINT, THE US LIMITED OFFICIAL USE

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ASKED IF CONSIDERATION HAD BEEN GIVEN TO THE ROLE OF THE SUPERVISORY AUTHORITY IN GUARANTEEING THE FREE FLOW OF INFORMATION ACROSS FRONTIERS, AS ACCESS TO SUCH INFORMATION IN THE NORMAL COURSE OF BUSINESS, RESEARCH, MEDICAL CARE AND SO ON, WOULD ALSO SEEM TO DERIVE FROM A REALISTIC INTERPRETATION OF THE CONVENTION ON HUMAN RIGHTS, AND OF THE OTHER INTERNATIONAL AGREEMENTS REFERRED TO ON PAGE 11 OF THE CE MEMORANDUM EXP/DATA PROT(76) (PARA 3 OF THE EXPLANATORY REPORT TO CHAPTER II).

16. THIS QUESTION PROVOKED AN INTERESTING DEVELOPMENT, INASMUCH AS HONDIUS HELD UP A VERY ROUGH FIRST DRAFT OF A SWEDISH PROPOSAL FOR AMENDMENTS TO THE SECRETARIAT'S DRAFT CONVENTION "WITH A VIEW TO OECD USE" : THE RELEVANT PASSAGE SAYS : QUOTE. ARTICLE 3 (A) PRINCIPLES OF FACILITATING PROPER TRANSFRONTIER DATA FLOW. 1. THE CONTRACTING STATES RECOGNIZE THE IMPORTANCE OF FREE FLOW OF IDEAS AND INFORMATION AND OF FACILITATING, UNDER DUE CONSIDERATION OF PRIVACY PROTECTION, THE PROPER TRANSMISSION OF DATA FOR INTERNATIONAL ECONOMY, COMMERCE, EDUCATION, LABOR, HEALTH AND WELFARE PURPOSES. 2. TO THAT END, EACH CONTRACTING STATE SHALL ENSURE THE OBSERVANCE IN ITS TERRITORY AND IN ITS RELATIONS WITH OTHER STATES OF THE FOLLOWING PRINCIPLES : (A) SPECIAL ATTENTION WILL BE GIVEN TO THE PROPRIETY AND CONFIDENTIALITY OF DATA, WHETHER GOVERNMENTAL OR PRIVATE, TRANSMITTED VIA TELECOMMUNICATIONS, BROADCASTING OR POST (B) NO CONTRACTING STATE WILL INTERVENE IN DATA TRANSMISSION SOLELY FOR REASONS OF DOMESTIC PROCESSING, EMPLOYMENT OR TECHNOLOGICAL DEVELOPMENT, BY INSTITUTING TARIFFS OR OTHER BARRIERS TO THE ORGANIZATION AND FLOW OF DATA. END QUOTE. FULL DISCUSSION ON THIS PROPOSED AMENDMENT WILL BE HELD IN JUNE, BUT THE SWEDISH REPRESENTATIVE, COMMENTING ON HIS COUNTRY'S PROPOSED AMENDMENTS, STATED THAT SWEDEN'S PRIVACY LEGISLATION STILL HAD "SEVERAL GAPS" AND THAT "DIFFICULTY WAS BEING EXPERIENCED WITH SOME OF THE LIMITED OFFICIAL USE

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PROVISIONS" OF THAT LEGISLATION. HIS COMMENTS, COUPLED WITH THE PROPOSED AMENDMENTS TO THE CE DRAFT CONVENTION, WITH THE CHANGED ATTITUDE OF THE SWEDISH MEMBERS OF THE OECD PANEL, AND WITH THE FACT THAT THE NORDIC CONVENTION ON DATA PROTECTION HAS BEEN DROPPED, SUGGEST THAT THE SWEDISH GOVERNMENT IS RUNNING INTO PROBLEMS THAT WERE NOT ANTICIPATED DURING THE FIRST FLUSH OF ENTHUSIASM FOR THE CE-WIDE CONVENTION.

17. MISSION COMMENTS. (A) ACCORDING TO JOINET, THE COUNCIL OF EUROPE WILL NOT HAVE A DRAFT CONVENTION READY FOR RATIFICATION UNTIL 1980, IF EVER THERE IS AGREEMENT ON A TEXT. THE CE REALIZES THAT COMPATIBILITY WITH THE VIEWS OF THE OECD AND WITH OTHER ORGANIZATIONS IS ESSENTIAL IF, AS IS DESIRED, A CE CONVENTION IS TO BE OPEN-ENDED. (B) ENTHUSIASM IN THE OECD AND CE SECRETARIATS TO PUSH AHEAD WITH A DRAFT TEXT IS APPARENTLY NOT MATCHED BY KEY MEMBER COUNTRIES IN BOTH ORGANIZATIONS. SWEDEN IS ANXIOUS TO ACCELERATE THE PROCESS IN THE OECD AS THIS WOULD FACILITATE A WITHDRAWAL FROM THE AWKWARD SITUATION OF SUPPORTING IN THE CE A GENERALIZATION OF NATIONAL LEGISLATION THAT HAS PROVED TO BE A DOUBLE-

EDGED WEAPON. SWEDEN DEPENDS HEAVILY ON TRANSNATIONAL DATA FLOW, PARTICULARLY OF US ORIGIN, AND THE PROPOSED AMENDMENTS TO THE CE DRAFT CONVENTION SHOW A CLEAR DESIRE TO BACK-PEDAL (C) THE SITUATION IN THE CE WOULD SEEM TO BE STABILIZED, WITH FURTHER PROGRESS DEPENDENT ON INITIATIVES BY OTHER ORGANIZATIONS, PARTICULARLY THE OECD. (D) THEREFORE, THE PROBLEM FOR THE US IS TO ENSURE

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THAT THE OECD SECRETARIAT TAKE THE LEAD IN CAREFULLY EXAMINING SUBSTANTIVE ISSUES. (E) WITH THE ABOVE IN MIND, THE MISSION HAS ASKED THAT THE US POSITION, AS STATED TO THE CSTP ON FEB 9, BE RECORDED IN THE MINUTES OF THE COMMITTEE'S MEETING, NOTING THE CONSENSUS OF MEMBERS ON THE NEED TO EXPLORE SUBSTANCE WITHOUT COMMITMENT TO ACTION UNTIL APPROPRIATE. (F) AT THE MAR 1-3 MEETING OF THE ICCP, THE US POSITION SHOULD BE RESTATED, AND IN ADDITION AGREEMENT SHOULD BE SOUGHT THAT THE ROLE OF THE DATA BANK PANEL IN ITS PRESENT FORM IS TO PREPARE THE SYMPOSIUM, AS THE OUTCOME OF THIS MEETING WILL ORIENT FURTHER OECD WORK IN THE FIELD OF TRANSBORDER DATA FLOW.

18. FOLLOWING UNCLASSIFIED DOCUMENTS HAVE BEEN AIRPOUCHED TO THE DEPARTMENT (CRAWFORD, OES) : (A) CANADIAN POSITION

FOR FEB 3-4 OECD MEETING (B) LIST OF PARTICIPANTS IN CE
FEB 15-16 WORKING-PARTY (C) SUMMARY OF CE COMMITTEE OF
EXPERTS ON DATA PROTECTION MEETING, NOV 29-DEC 1, 1976
(D) CE SECRETARIAT DRAFT CONVENTION (E) OECD SECRETARIAT
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FIRST DRAFT OF INTERNATIONAL AGREEMENT (INFORMAL, UNOF-
FICIAL, NO STATUS) (F) JOINET REDRAFT OF CE CONVENTION
ARTICLE 2 (G) NETHERLANDS COMMENTS ON CE DRAFT (H)
SWEDISH COMMENTS ON AND PROPOSED CHANGES TO CE DRAFT
(I) NETHERLANDS DRAFT BILL ON PERSONAL DATA SYSTEMS (J)
SELECTED NATIONAL PROVISIONS ON TRANSBORDER DATA PROTEC-
TION (CE SECRETARIAT MEMORANDUM).
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Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DATA, COMMITTEE MEETINGS, MEETING REPORTS, BORDER CONTROLS, INFORMATION CONTROL
Control Number: n/a
Copy: SINGLE
Sent Date: 23-Feb-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977OECDP05442
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770063-0138
Format: TEL
From: OECD PARIS
Handling Restrictions: n/a
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Message ID: 102b61c0-c288-dd11-92da-001cc4696bcc
Office: ACTION OES
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
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